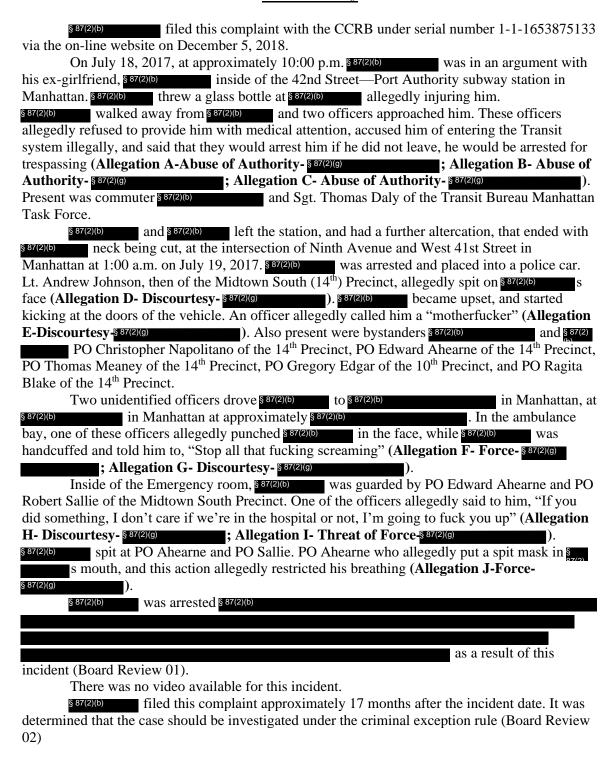
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Ø	Force	✓ Discourt.	☐ U.S.
Miriam Lynch		Squad #11	201810095	 	Abuse	O.L.	☐ Injury
		•					_ ` `
Incident Date(s)		Location of Incident:		F	Precinct:	18 Mo. SOL	EO SOL
Tuesday, 07/18/2017 10:00 PM, W 07/19/2017 1:00 AM, Wednesday 07/19/2017 1:38 AM					14	1/19/2019	1/19/2019
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Received at CCI	RB
Wed, 12/05/2018 10:23 AM		CCRB	On-line website		Wed, 12/0:	5/2018 10:23 AN	М
Complainant/Victim	Type	Home Addre	ess		•		
Witness(es)		Home Addre	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. LT Andrew Johnson	00000	941966	MTS PCT				
2. An officer							
3. POM Edward Ahearne	30507	953620	MTS PCT				
4. Officers							
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POM Christophe Napolitano	10704	956966	MTS PCT				
2. POM Robert Sallie	16793	961230	MTS PCT				
3. POM Gregory Edgar	30167	942778	010 PCT				
4. POF Ragita Blake	26469	948182	010 PCT				
5. POM Brendan Oseback	08047	956994	MTS PCT				
6. POM Thomas Meaney	22163	962607	MTS PCT				
7. SGT Thomas Daly	03644	929987	TB M/TF				
8. POM Jonathan Jamieson	28689	957707	TB M/TF				
Officer(s)	Allegatio	n			Inve	stigator Recon	nmendation
A. Officers		on July 18, 2017, at the 4 rain station in Manhattan with medical atte	n, officers did not pr				
B. Officers		on July 18, 2017, at the 4 rain station in Manhatta			ority		
C. Officers		on July 18, 2017, at the 4 rain station in Manhattar <sup>2)(b)</sup>					
D.LT Andrew Johnson	Avenue i	esy: On July 19, 2017, at n Manhattan, Lieutenant ously towards § <sup>87(2)(b)</sup>			Vinth		

Officer(s)	Allegation	Investigator Recommendation
E. An officer	Discourtesy: On July 19, 2017, at Ninth Avenue and West 41st Street in Manhattan, an officer spoke discourteously to \$87(2)(b)	
F. An officer	Force: On July 19, 2017, at §87(2)(b) in Manhattan, an officer used physical force against §87(2)(b)	
G. An officer	Discourtesy: On July 19, 2017, at \$87(2)(b) in Manhattan, an officer spoke discourteously to \$87(2)(b)	
H. An officer	Discourtesy: On July 19, 2017, at \$87(2)(b) in Manhattan, an officer spoke discourteously to \$87(2)(b)	
I. An officer	Abuse: On July 19, 2017, at \$87(2)(b) in Manhattan, an officer threatened \$87(2)(b) with the use of force.	
J.POM Edward Ahearne	Force: On July 19, 2017, at \$87(2)(b) in Manhattan, Police Officer Edward Ahearne restricted breathing.	

## **Case Summary**



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## Findings and Recommendations Allegation (A) Abuse of Authority: On July 17, 2017, at the 42<sup>nd</sup> Street—Port Authority subway train station in Manhattan, officers did not provide street—with medical attention. Allegation (B) Abuse of Authority: On July 17, 2017, at the 42<sup>nd</sup> Street—Port Authority subway train station in Manhattan, officers questioned street—Port Authority subway train station in Manhattan, officers threatened to arrest street—Port Authority subway train station in Manhattan, officers threatened to arrest street.

It is undisputed that \$87(2)(b) was engaged in a dispute with \$87(2)(b) at the 42<sup>nd</sup> Street—Port Authority station, and that \$87(2)(b) used a bottle as a weapon against After she did, she left the scene. The actions of the responding officers, however, are in dispute.

said that \$37(2)(b) cut him in the neck with a bottle during this dispute, and that he left the scene to walk closer to some nearby tourists, who activated a Station Help Point. He was bleeding substantially from the back of his neck. When officers arrived, they did not get him an ambulance upon his request. They asked where his Metrocard was, and they said that if he did not leave the station, they would arrest him. \$37(2)(b) described the subject officers as two black males in plainclothes. He did not specify the police agency they worked for.

provided a statement to the CCRB over the phone. He said that two individuals, a white male and a female of indeterminate race in her twenties, were drunk and arguing. The female individual threw a bottle towards the male individual. The bottle cut the male individual's hand, and the male individual was bleeding profusely. \$87(2)(b) did not remember how the officers were called to the scene, and did not remember calling 911. When police arrived—\$87(2)(b) remembered only that an Asian male was officer was on scene—\$87(2)(b) heard them asking questions about what happened. He remembered that the male individual on scene was uncooperative with the officers. He did not remember whether the officers mentioned arresting the male individual. The female individual left before the incident concluded (Board Review 03).

Sgt. Daly, a white male who was qualified to patrol in plainclothes on the date of the incident, had the incident in his memo book, but did not have any independent recollection of interacting with His memo book entries indicated that he directed PO Jonathan Jamieson to complete a Domestic Incident Report in regards to the matter, but a request for that document returned negative results (Board Review 04).

s arrest photo from July 18, 2017 showed that he is a black male. It also showed him wearing a white T-shirt, which did not show any blood (Board Review 05). Criminal Complaint Number \$87(2)(6) at the time of the incident (Board Review 06).

Station Help Point Data, obtained from the MTA, showed that at approximately 10:06 p.m., a call was made for a female individual assaulting a male individual. This document noted that the incident occurred near Post #9 of the Times Square Initiative (Board Review 07).

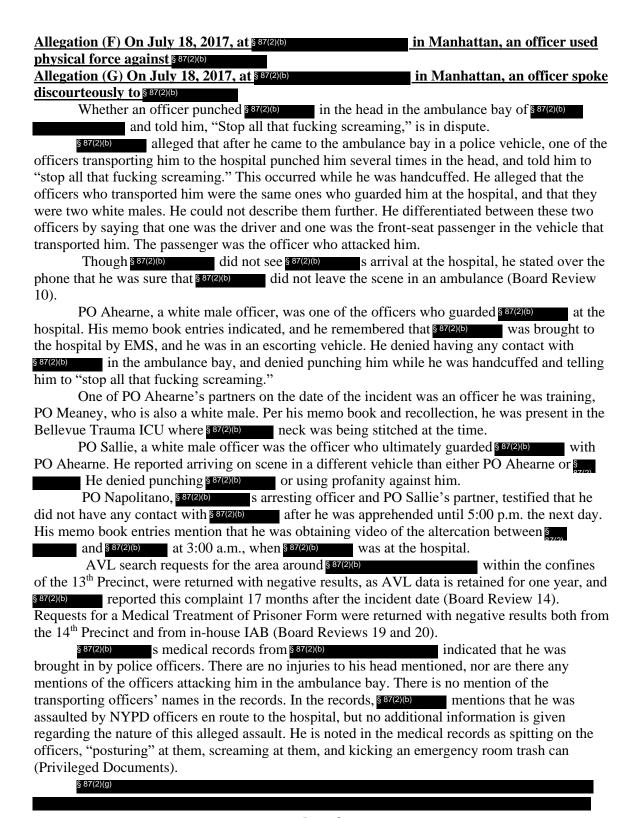
A radio run from FDNY showed that an individual (later identified by the investigation as called 911 for a female assaulting a male with a bottle. In addition, another individual activated the Station Help Point inside of the station. At approximately 10:05, units described as "14PP2" and 14SP8" arrived on scene and requested EMS. At approximately 10:06

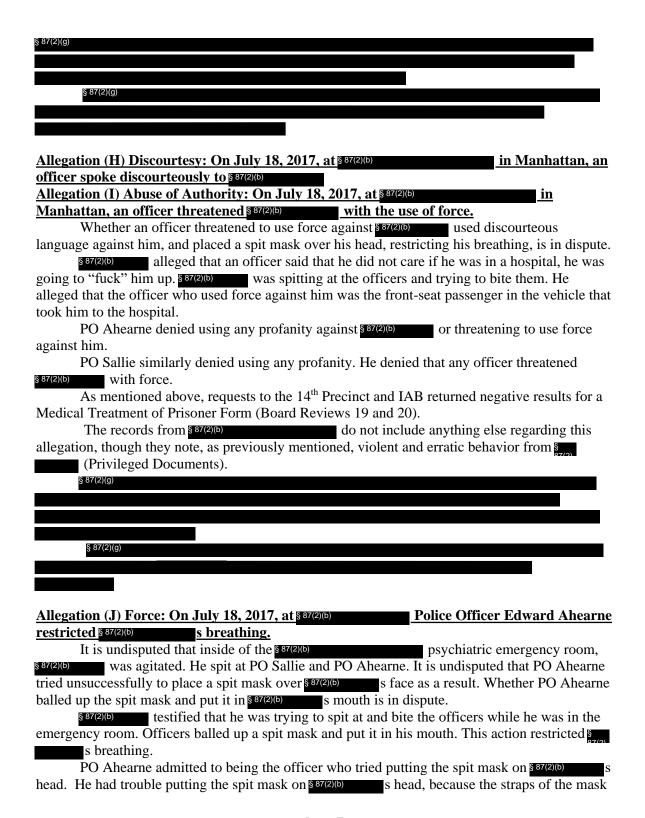
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individual left the scene, and that the male individual was uncooperative. EMS did not treat anyone, as a female individual threw a bottle at a male individual's back and the male individual was uncooperative (Board Review 08). § 87(2)(g) Allegation (D) On July 18, 2017, at West 41st Street and Ninth Avenue in Manhattan, Lieutenant Andrew Johnson acted discourteously towards §87(2)(b) It is undisputed that §87(2)(b) and §87(2)(b) continued their altercation in the vicinity of the Port Authority Bus Terminal, outside of the subway. At some point, \$87(2)(b) sustained a six-inch cut on the front of her neck, and police and EMS were called. Lt. Johnson responded to the scene and assisted in placing § 87(2)(b) in the vehicle. Upon filing this case, the only allegation \$87(2)(b) noted was that officers "stomped" him (Board Review 21). When he was reached by phone and interviewed, he denied that this ever occurred. testified that he did not remember how § 87(2)(b) her neck injury, as his post-traumatic stress disorder renders him unable to account for his actions during stressful situations. As Lt. Johnson placed him in the vehicle, after he was handcuffed by police officers, Lt. Johnson spit on his face. §87(2)(b) kicked the windows of the police vehicle in retaliation. Once he arrived at § 87(2)(b) he requested that his face be swabbed for evidence. Lt. Johnson denied spitting in §87(2)(b) s face. PO Napolitano, PO Sallie, and PO Meaney denied that Lt. Johnson spit on \$87(2)(b) PO Ahearne nor PO Blake recalled any officer spitting on \$37(2)(5) s face. PO Edgar testified that he did not see § 87(2)(b) being placed into a vehicle. did not see § 87(2)(b) being taken into custody (Board Review 09). viewed the apprehension from across Eighth Avenue (the investigation determined that the incident occurred at Ninth Avenue). He denied that any traffic obstructed his view of what was happening. He did not mention that he saw any officer spit on §87(2)(b) (Board Review 10). s records from § 87(2)(b) indicated that he requested to hospital staff that his face be swabbed for saliva. Nothing in the records indicated that any evidence collection was undertaken, nor why he wanted it done (Privileged Documents). § 87(2)(g) Page 4

p.m. a unit marked as "TRAN/D1SP10" was dispatched to or arrived on scene. At approximately 10:10 p.m., a sergeant from the Times Square Initiative noted over the radio that the female

§ 87(2)(g)
Allegation (E) On July 18, 2017, at Ninth Avenue and West 41st Street in Manhattan, an
officer spoke discourteously to §87(2)(b)
Whether an officer spoke discourteously to §87(2)(b) during his apprehension is in
dispute.
alleged that as he was being placed in a police vehicle, an officer he described
only as a white male called him a "motherfucker." He described many officers coming to the
scene, including those he described as wearing the bluish-black uniforms of the "New York State
Troopers."
White males on scene not wearing a lieutenant's uniform included PO Napolitano, PO
Edgar, PO Ahearne, PO Sallie and PO Meaney. None of them, in their interviews, admitted to
calling § 87(2)(b) a "motherfucker." Neither Lt. Johnson nor PO Blake observed any officer
calling § 87(2)(b) a "motherfucker."
"PO Blake, PO Edgar, and PO Napolitano all testified that the incident took place on the
border of the 10 <sup>th</sup> Precinct and the 14 <sup>th</sup> (Midtown South) Precinct.
\$ 87(2)(b) did not observe \$ 87(2)(b) s apprehension. When \$ 87(2)(b) was asked
whether any officer called \$87(2)(b) a "motherfucker," he said that he did not remember
whether they did. He also stated that he observed the apprehension from across an avenue (Board
Review 10).
Event D17071901015 indicated that units from 10 <sup>th</sup> Precinct Robbery, 10 <sup>th</sup> Precinct
Sector officers, the 10 <sup>th</sup> Precinct patrol sergeant, the 14 <sup>th</sup> Precinct Lieutenant, and a Neighborhood
Coordination Officer arrived. Once the Neighborhood Coordination Officer arrived, there was a
Level I Mobilization put into place, and the following units were notified: "BS," "SOD," "OPS,"
"TRAN," "CWA," "HWY," "OCCB," "RTCC," "INTEL." After this Level 1 Mobilization was
put in place, a duty captain and at least one other 14 <sup>th</sup> Precinct patrol unit arrived on scene (Board
Review 11).
The Unusual Occurrence Report generated in regards to this incident indicated that a
captain and two lieutenants arrived from the 14 <sup>th</sup> Precinct and that two sergeants arrived from the
Times Square Unit. This document mentioned that §87(2)(b) kicked Lt. Johnson in the face
during his apprehension. Besides the strike to Lt. Johnson's face and the fact that PO Napolitano
and PO Sallie were in the sector who arrested him, there were no other mentions of specific
actions taken by officers during §87(2)(b) s apprehension (Board Review 12).
There were no radio recordings available for this incident, as radio recordings are only
preserved for one year and [887(2)(b)] filed this complaint 17 months after the incident (Board
Review 13). AVL searches conducted for this area were returned with negative results, as AVL
searches only last for one year (Board Review 18).
§ 87(2)(g)





were b	roken, but he denied placing it in \$87(2)(b) s mouth, and he did not believe at any time (2)(b) s breathing was restricted.
tilat	PO Sallie also denied that any officer put a spit mask in \$87(2)(b) s mouth, and also did
not bel	ieve that at any time, \$87(2)(b) s breathing was restricted.
c 07/2)/h)	The § 87(2)(b) records do not indicate any restriction of breathing for §
3 81 (Z)(D)	(Privileged Documents.) §87(2)(9)
	Civilian and Officer CCRB Histories
•	§ 87(2)(b)
•	Lt. Johnson has been a member of service for 13 years. Three prior CCRB complaints
	and six prior CCRB allegations have been filed against him. None have been substantiated.
	Substantiated.  ○ §87(2)(g)
•	PO Ahearne has been a member of service for 6 years. Seven prior complaints and 18
	prior allegations have been filed against him.
	Mediation, Civil and Criminal Histories
•	This case was not suitable for mediation due to the arrest.  As of February 13, 2020, there is no Notice of Claim filed on behalf of \$87(2)(b) for
•	this case, according to the New York City Office of the Comptroller (Board Review 16).
•	§ 87(2)(b)
	As a result of this incident, he was convicted of attempted murder 87(2)(b)
Squad	No.: <u>11</u>
Investi	gator: Miriam Lynch SI Miriam Lynch 04/14/2020
	Signature Print Title & Name Date

Squad Leader: _E Signature	dwin Pena	 vin Pena tle & Name	04/16/20 Date	0
Reviewer:	Signature	 Print Title &		 Date